

REMARKS

In the Office Action, the Examiner rejected claims 1-20. No claims are presently added, amended, or canceled. Applicants respectfully request reconsideration of the claims in view of the remarks set forth below and the attached exhibits.

Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-3, 5-7, 9-12 and 15-19 under 35 U.S.C. § 103(a) as being unpatentable over von der Ruhr et al., U.S. Patent No. 6,308,089 (hereafter referred to as the “von der Ruhr reference”) in view of Osborn, U.S. Patent No. 6,026,293 (hereafter referred to as the “Osborn reference”); rejected claims 4, 8 and 14 under 35 U.S.C. § 103(a) as being unpatentable over the von der Ruhr reference in view of the Osborn reference as applied to claims 1, 5 and 9 above, and further in view of Quinn et al., U.S. Patent No. 5,720,293 (hereafter referred to as the “Quinn reference”); rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over the von der Ruhr reference in view of the Osborn reference as applied to claim 9 above; and rejected claim 20 under 35 U.S.C. § 103(a) as being unpatentable over the von der Ruhr reference in view of the Osborn reference as applied to claim 19 above, and further in view of Ali et al., U.S. Patent No. 6,584,336 (hereafter referred to as the “Ali reference”).

Applicants respectfully traverse these rejections. The Examiner relied on the von der Ruhr reference as a primary reference in all of the rejections set forth in the Office Action. However, as demonstrated by the attached Declaration under 37 C.F.R. § 1.131 (hereafter referred to as the “Rule 131 Declaration”), a copy of which is attached hereto as Exhibit 1, the

von der Ruhr reference is not prior art. Indeed, as the attached Rule 131 Declaration demonstrates, the present invention was conceived prior to the April 14, 1999, filing date of the von der Ruhr reference. Specifically, the Rule 131 Declaration shows a conception date of at least January 8, 1999, with evidence of diligence in reduction to practice from April 13, 1999 (the day before the von der Ruhr filing) to the September 28, 1999, filing date of the provisional application from which the present application claims priority.

The Rule 131 Declaration was previously filed in the present application's parent case. The application number assigned to that case is 09/662,246, and it issued as U.S. Patent No. 6,708,049. Specifically, the Rule 131 Declaration was filed along with an Amendment dated August 20, 2002. It should be noted that, in response to the filing of the Rule 131 Declaration, on October 28, 2002, the U.S.P.T.O. issued an Office Action noting that the Rule 131 Declaration was sufficient to overcome the von der Ruhr reference. A copy of this Office Action is attached hereto as Exhibit 2. Applicants assert that the Rule 131 Declaration should again be deemed sufficient to overcome the von der Ruhr reference with respect to the present claims.

The Rule 131 Declaration is signed by all of the inventors except Michael Fein, who has passed away. A copy of Mr. Fein's Certificate of Death is attached hereto as Exhibit 3.

In view of the remarks set forth above and the attached exhibits, Applicants assert that the Examiner's rejections based on the von der Ruhr reference are moot. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections under 35 U.S.C. § 103, which are all based on the von der Ruhr reference, and provide an indication of allowance for claims 1-20.

General Authorization for Extensions of Time and Payment of Fees

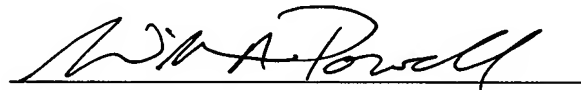
In accordance with 37 C.F.R. § 1.136, Applicants hereby provide a general authorization to treat this and any future reply requiring an extension of time as incorporating a request therefore. Furthermore, the Commissioner is authorized to charge the requisite fee of \$120.00, for a one-month extension due at this time and any additional fees which may be required, to the credit card listed on the attached PTO-2038. However, if the PTO-2038 is missing, if the amount listed thereon is insufficient, or if the amount is unable to be charged to the credit card for any other reason, the Commissioner is authorized to charge Deposit Account No. 06-1315, Order No. TYHC:0053-2/FLE.

Conclusion

In view of the remarks set forth above, Applicants respectfully request allowance of claims 1-20. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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